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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह जसम संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं

Orders and Notifications issued by the Central Authorities (other than the Administration of Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 10 जून, 1986

प्रादेश

आ. अ. 142 :—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट उड़ीसा राज्य से विधान सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा प्रप्रेक्षित उक्त सारणी के स्तम्भ (5) में यथा उल्लिखित रूप में अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा प्रप्रेक्षित रीति से दाखिल करने में असफल रहा है ;

और उक्त, अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त अनकमता के लिए कोई पर्याप्त कारण या म्यादोचित नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य संघ/राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए प्रादेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

सारणी

1. उड़ीसा राज्य से विधान सभा का साधारण निर्वाचन, 1985

33-केन्द्रपारा

श्री ज्ञानेश्वर नायक,  
ग्राम बागपुर,  
पो. धरीपाड़ा,  
बाया केन्द्रपारा,  
जिला कटक, उड़ीसा

विधि द्वारा प्रप्रेक्षित रीति व समय में निर्वाचन व्ययों का लेखा दाखिल नहीं किया है ।

1	2	3	4	5
2.	उड़ीसा राज्य से विधान सभा का साधारण निर्वाचन, 1985	103-उदयगिरि (प्र. ज. आ.)	राबती प्रधान, भानुचरणगो, पो. कटाली, बाया सरनगाड़ा, जिला फुलबानी, उड़ीसा ।	विधि द्वारा प्रपेक्षित रीति में निर्वाचन व्ययों का लेखा दाखिल नहीं किया ।
3.	—वही—	104-फुलबानी (प्र. ज. आ.)	श्री महादेव महानन्दा, ग्राम नेड़ीगड़ा, पो. तीतरापोंगा, जिला फुलबानी, उड़ीसा ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया है ।
	—वही—	—वही—	श्री बुज मोहन बेहरा, ग्राम पो. झागड़ापाटा, जिला फुलबानी, उड़ीसा ।	विधि द्वारा प्रपेक्षित रीति में निर्वाचन व्ययों का लेखा दाखिल नहीं किया ।
5.	—वही—	107-कान्ताबाजी	श्री महादेव मासी, एट-मनीगांव, पो. चलीफूका, जिला बालनगीर उड़ीसा ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया है ।
	—वही—	109-सैताना	श्री भारत चन्दा बेहरा, एच छानचराड़ा, पो. करमटाला, पी. एम. सैनाला, जिला बालनगीर, उड़ीसा ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया है ।
7.	—वही—	110-थोईसिखा	श्री भाग्यना कोलेट, एट पो. बुरवा, जिला बालनगीर, उड़ीसा ।	—वही—
	—वही—	113-बिका	श्री गोविन्दा सा, ग्राम केवुमन्डी, पो. झारनीपाली, जिला बालनगीर, उड़ीसा ।	—वही—
	—वही—	—वही—	श्री पारीकशिटा करन, एट पो. शंकारा, जिला बालनगीर, उड़ीसा ।	—वही—
10.	—वही—	—वही—	श्री जीबधेन बारासागर, ग्राम सरंगपाली, पो. बंकीगिरिड़ी, जिला बालनगीर, उड़ीसा,	विधि द्वारा प्रपेक्षित रीति व समय में निर्वाचन व्ययों का लेखा दाखिल नहीं किया है ।
11.	—वही—	—वही—	श्री रणजीत मेहरा, एट/पो. रामपुर, जिला बालनगीर, उड़ीसा ।	—वही—

[सं. 76 उड़ीसा-वि. स. 85]

ELECTION COMMISSION OF INDIA  
New Delhi, the 10th June, 1986

## ORDERS

O.N. 142.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to Orissa Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder ;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after the notice or the Election Commission, after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	S. No. & Name of Assembly Constituency	Name & Address of the contesting candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to Orissa Legislative Assembly, 1985	33. Kendrapara	Shri Khageswar Nayak, Vill. Basupur P.O. Aripada, Va : Kendrapara, Distt. Cuttack, Orissa.	Failed to lodge account within time and in the manner required by law.
2.	-do-	103. Udayagar (ST)	Smt. Tarabst Pradhan, Vill. Birang ; P. O. Katadi, Via : Sarangada, Dist. Phulbani, Orissa.	Failed to lodge account in the manner required by law.
3.	-do-	104. Phulbani (SC)	Shri Mahadev Mahananda, Vill. Nediguda, P.O. Titraponga, Distt. Phulbani, Orissa.	Failed to lodge any account.
4.	-do-	-do-	Shri Braja Mohan Behera, Vill. & P.O. Jhagadapata, Distt. Phulbani, Orissa.	Failed to lodge account in the manner required by law.
5.	-do-	107. Kantabanji	Shri Mahadev Majhi P.O. Chuliphunka Distt. Balangir Orissa.	Failed to lodge any account.
6.	-do-	109. Saintala	Shri Bharat Chandra Behera At-Chhanchrada P.O. Karamtala P.S. Saintala Distt. Balangir Orissa.	-do-
7.	-do-	110. Loisingha	Shri Bhagbana Kalot At/P.O. Burda Dist. Balangir Orissa.	-do-
8.	-do-	113. Binka	Shri Vovinda Sahu Vill. Kendumundi P.O. Jharanipali Distt. Balangir, Orissa.	-do-

1	2	3	4	5
9.	General Election to Orissa Legislative Assembly 1985	113. Binka	Shri Parikshita Karna, At/P.O. Sinkara, Distt. Balangir, Orissa.	Failed to lodge any account.
10.	-do-	-do-	Shri Jibardhan Bharasagar, Vill. Sarangpali, P.O. Bankigiridi, Distt. Balangir, Orissa.	Failed to lodge account within time and in the manner required by la
11.	-do-	-do-	Shri Ranjit Moher, At/PO Rampur Distt. Balangir, Orissa.	-do-

[No. 76/OR-LA/85]

भा.प्र. 143 :—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट परिवर्तन यथा राज्य से लोक सभा उप-निर्वाचन 1985 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा अपेक्षित रीति से दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों, पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आवेदन की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

## सारणी

क्रम	निर्वाचन का विवरण	संसदीय निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
1.	लोक सभा का उप निर्वाचन 1985 (पश्चिम बंगाल से)	41-बोलपुर	श्री कमला कांत राय, ग्राम कालूरोपपुर, पो. कोनारपुर, जिला बीरभूम, पश्चिम बंगाल ।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया ।
2.	—वही—	—वही—	श्री मधेश्वर हुसैन, सोनादोरेपाड़ा, पो. सूरु, जिला बीरभूम, पश्चिम बंगाल ।	—वही—

[सं. 76/प. बं.—लो. स./85)]

O.N. 143.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the bye-election held in 1985 to the House of the People from West Bengal State as specified in column (3) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and/or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder ;

And whereas the said candidates have either not furnished

any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from date of this order.

TABLE

Sl. No.	Particulars of election	S.No. & Name of the Parliamentary Constituency	Name & Address of the contesting candidate	Reason for disqualification
1	2	3	4	5
1.	Bye-election to the House of the People, 1985 from West Bengal State.	41. Bolpur	Shri Kamdla Kanta Roy, Vill. Kaluroypur, P.O. Kanpur Dist. Birbhum, West Bengal.	Failed to lodge any account.
2.	-do-	-do-	Shri Madeshwar Hussain, Sonatorepara, P.O. Suri, Distt. Birbhum, West Bengal	-do-

[No. 76/WB-HP/85]

घा.प्र. 144 :—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में दी गयी विनिर्दिष्ट पश्चिम बंगाल विधान सभा के उप-निर्वाचन 1985 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी लोक प्रतिनिधित्व अधिनियम, 1951 तथा संशुद्धि अनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपदर्शित रूप में अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा अपेक्षित रीति से दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रयत्न स्वीकार नहीं किया है या उनके द्वारा दिए गए अभ्यावेदों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यायोजित नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आवेदन की सारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्रम संख्या	निर्वाचन का विवरण	विधान सभा निर्वाचन क्षेत्र को क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
1.	विधान सभा का उप-निर्वाचन 1985. (पश्चिम बंगाल)	283-मानूर (म.जा.)	श्री नीलकान्त हजरा, ग्राम डोंगरा, पो. बौरा, जिला बीरभूम, पश्चिम बंगाल।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया है।
2.	—वही—	—वही—	श्री राम हजरा, ग्राम अरार, पो. टाटीनापाड़ा, जिला बीरभूम, पश्चिम बंगाल।	—वही—

[सं. 76/प. बं.-वि. स./85]

आदेश से

एस. डी. प्रसाद, सचिव

O.N. 144.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the By-election held in 1985 to the Legislative Assembly of West Bengal as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and/or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder ;

And whereas the said candidates have either not furnished

any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	S. No. & Name of the Assembly Constituency	Name & Address of the contesting candidate	Reason for disqualification
1	2	3	4	5
1.	By-election to the Legislative Assembly of West Bengal in 1985.	283. Nanur (SC)	Shri Nilkanta Haza, Vill. Dongra, P.O. Bora, Dist. Birbhum, West Bengal.	Failed to lodge any account.
2.	-do-	-do-	Shri Ram Hazra, Vill. Arar, P.O. Tatinapara, Distt. Birbhum, West Bengal.	-do-

[No. 76/WB-LA/85]

By Order,

S.D. PERSHAD, Under Secy.

नई दिल्ली, 10 जून 1986

आदेश

आ.घ. 145 :—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त अपने निर्वाचन व्ययों का लेखा रीति से/ कोई भी लेखा दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रयत्न स्वीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यावहारिक नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निरहेता का कारण
1	2	3	4	5
1.	विधानसभा का साधारण निर्वाचन	1-मधियालपेट	श्री जी. सुखरमूर्ति, 34, माणिकामुबालियार बौटम, मधियालपेट, पांडिचेरी।	लेखा दाखिल करने में असफल रहे।
2.	—वही—	5-श्रीपासम	श्री एम. प्रह्लाद सेल्वान, नं. 1, ब्लाक 1, सेंट लघार, कोइल स्ट्रीट, वुपरोयपेट, पांडिचेरी।	—वही—

1	2	3	4	5
3.	विधान सभा का साधारण निर्वाचन	6-ओरलीमपेट	श्री एम. सीनासामी, 44, अरुनथाधिपुरम (सकीलिपलायन) ओरलेमपेट, पांडिचेरी।	लेखा दाखिल करने में असफल रहे।
4.	—वही—	8-मोडलियारपेट	श्री एस. पी. ए. पार्थसारथी, 7/25-ए, मेट्टु स्ट्रीट, थेंगाईथिट्टु, पांडिचेरी।	—वही—
5.	—वही—	21-लावसपेट	श्री डी. सेल्वम, 29-बी, मेन रोड, लावसपेट, पांडिचेरी।	—वही—
6.	—वही—	28-माहे	श्री बी. के. भारथन, राजहेंडील हाऊस, चेकुकालायी, 2 न्यू माहे।	—वही—

[सं. 76/पावे.-वि. न./86 (3-8)]

New Delhi, the 10th June, 1986

## ORDERS

O.N. 145.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People/Legislative Assembly specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of his election expenses in the manner/has not lodged the account at all as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder :

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	S. No. & Name of constituency	Name of contesting candidates	Reason for disqualification
1	2	3	4	5
1.	General election to Assembly Constituency.	1. Muthialpeth	Shri G. Sundaramurthy, 34, Manickamudliar Thottam, Muthialpet, Pondicherry.	Failure to lodge account.
2.	-do-	5. Oupalam	Shri a. Arum Oiselvam, No. 1, Block I, St. Lazar Koil Street, Duproypet, Pondicherry.	-do-
3.	-do-	6. Orleampeth	Shri M. Sinnassamy, 44, Arunthathipuram (Sakkiliplaayam), Orleampeth, Pondicherry.	-do-
4.	-do-	8. Modelarpeth	Shri S.P.A. Parthasarathy, 7/25-A. Mettu Street, Thengaithittu, Pondicherry-4	-do-
5.	-do-	21. Lawspet	Shri D. Selvam, 28-B, Main Road, Lawspet, Pondicherry.	-do-
6.	-do-	28. Mahe	Shri V.K. Bharathan, Vazhayil House, Chorukallayi, 28 New Mahe	-do-

[No. 76/POND-LA/86 (3-8)]

भा. प्र. 146.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा/विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्विध बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपरिष्ठित रूप में अपने निर्वाचन व्ययों का कोई भी लेखा रीति से तथा समय के अन्तर और रीति से दाखिल करने में असफल रहे हैं;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायौचित्य नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आवेद की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र की क्रम सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निरहुता का कारण
1	2	3	4	5
226	लोकसभा का साधारण निर्वाचन (तमिलनाडु)	16-सलेम	श्री एस. धरियापुथुरन, पुत्र श्री रंगा गार्जंडर, 272, पुडुर, सलेम-7 (तमिलनाडु)	कोई भी लेखा दाखिल नहीं किया।
227	वही	वही	श्री एस. सेनगोत्तवेसु, पुत्र मुख्यागार्जंडर, 4/5, पी. मन्नारपालयम, सलेम-8 (तमिलनाडु)	वही
228	वही	वही	श्री पी. तुलसी रामाचारी, पुत्र तुलसीरमण, 103, पन्नाडम बैकटरमण स्थान सलेम-1 (तमिलनाडु)	समय के अन्तर और रीति से लेखा दाखिल नहीं किया।
229	विधान सभा का साधारण निर्वाचन 3-डा. राधाकृष्णन नगर (तमिलनाडु)		श्री डी. बी. कन्नन, 13-अम्मयप्पा मुवाली-स्ट्रीट, ओल्ड बामरमैनपेट, मद्रास-21	कोई भी लेखा दाखिल नहीं किया
230	वही	10-थाउजैड साइट्स	श्री अलागरासामी ए. टी. एस., 4, श्री निवासपेरुमल समाधि स्ट्रीट, मद्रास-14	वही
231	वही	59-मुगाइयु	श्री टी. बालकृष्णन, पुत्र थांडावरयान पिल्लर, गांव और डाकघर विल्लपुरम तालुक, साउथ धरकट जिला (तमिलनाडु)	रीति से लेखा दाखिल नहीं किया
232	वही	69-बुधाचलम	श्री ए. गणनमय्य, पुत्र एनयोनी, इरुक्कुरिबी गांव, य. अगारम डाकघर बुधाचलम तालुक, साउथ धरकट जिला (तमिलनाडु)	वही
233	[वही]	94-रसिपुरम	श्री एस. कृष्णानिधि, पुत्र सुम्बरय्या अचारी, आर. पुडुपालयम डाकघर, रसिपुरम तालुक, सलेम जिला (त. न.)	समय के अन्तर और रीति से लेखा दाखिल नहीं किया।



1	2	3	4	5
234	विद्याम तमा का साधारण निर्वाचन (तमिलनाडु)	98-तिरुचेन्नोडे	श्री एस. भार्यनारी, पुत्र सेमपिल्लई, ई-168 मन्निपालयम, तिरुचेन्नोडे तालुक, मलेम जिला (तमिलनाडु)	कोई भी लेखा दाखिल नहीं किया।
235	वही	वही	श्री एस. धार. धम्ममयम, पुत्र रंगासामी, 544, कामराज नगर, अन्नरंगाड, पल्लि परन्थम मलेम जिला (तमिलनाडु)	वही
236	वही	वही	श्री ए. दुलाई स्वामी, पुत्र अन्नोनरी, मेलपराईकाड, थाम्बोरपट्टाल पालयम, ठाकवर तिरुचेन्नोडे तालुक, मलेम जिला (तमिलनाडु)	वही
237	वही	131-पेरियाकुलम	श्री के. मय्यायराई पुत्र कारुप्पनन, 11/12, डा. मम्बेडकर नगर, बेनकराई, पेरियाकुलम, मदुराई जिला (तमिलनाडु)	वही
238	वही	132-थेनी	श्री एस. नारायणस्वामी, पुत्र एम. संगमानरकर, 56, बालकृष्णपुरम, गोपालपुरम ठाकवर, जिला मदुराई (तमिलनाडु)	वही
239	वही	वही	श्री पी. राजेन्द्रन, पुत्र पेरुमल चेट्टियार, राजगुरुलेन, पलानी चेट्टो पट्टी, ठाकवर पेरियाकुलम तालुक मदुराई जिला (तमिलनाडु)	रीति से लेखा दाखिल नहीं किया।
240	वही	138-उसिलमगट्टी	श्री एस. राजुचेवर, 3, मोहनमवल्लिम, बाई पाम रोड, मदुराई-16 (तमिलनाडु)	समय के अंतर और रीति से लेखा दाखिल नहीं किया।
241	वही	143-मदुराई केंद्रीय	श्री एम. धार. गणेशन, 7, 7, पिल्लाईमार स्ट्रीट, अरापान्थम, मदुराई-10 (तमिलनाडु)	कोई भी लेखा दाखिल नहीं किया।
242	वही	148-जिगिडपुल	श्री एफ. अमल, 17ए, लाइम स्ट्रीट, जिगिडपुल, मदुराई जिला, (तमिलनाडु)	वही

1	2	3	4	5
243	विधानसभा का साधारण निर्वाचन	166-निरुपिगपल्ली-1	श्री बी. सेलवम, 13. सवेरियार कोयल स्ट्रीट, आरागजेरी, निरुपिगपल्ली (तमिलनाडु)	कोई भी लेखा दाखिल नहीं किया।
244	नहीं	201-रामनाथपुरम	श्री सी. सधानन्द गणेश, 20 मिट्टल स्ट्रीट, रामेश्वरम, जिला रामनाथपुरम, (तमिलनाडु)	नहीं
245	नहीं	नहीं	श्री पी. चेल्लाथुराई, 156-नटराजपुरम, रामेश्वरम, जिला रामनाथपुरम (तमिलनाडु)	नहीं
246	नहीं	208-श्री बिल्लीपुथुर	श्री एम. ज्ञान सेकरण, उर्फ फिलाबेंडन, तान्नालम स्ट्रीट, मयनापुरम-626110, श्री बिल्लीपुथुर तालुक, रामनाथपुरम जिला (तमिलनाडु)	नहीं
247	नहीं	216-टेनकासी	श्री ए. एम. मुन्नेया, 97-साथनकेबिल फर्स्ट स्ट्रीट, टेनकासी जिला निरुनेलवेली (तमिलनाडु)	नहीं
248	नहीं	नहीं	श्री एम. मोहिदीन पिच्चाई, 61, रिजनी टेलम, अरिलगर अन्ना स्ट्रीट, शेनकोट्टाई निरुनेलवेली जिला (तमिलनाडु)	नहीं
249	नहीं	222-मानुगुनेरी	श्री जे. देवाश्याम, 52 स्टेट धामम स्ट्रीट, पेम्बलपुरम निरुनेलवेली (तमिलनाडु)	रीनि ने लेखा दाखिल नहीं किया।
250	नहीं	227-टुडिकोरिन	श्री बी. एम. उदयसूरियन, 47, कुञ्जपुरम, टुडिकोरिन, निरुनेलवेली जिला (तमिलनाडु)	कोई भी लेखा दाखिल नहीं किया।

[सं. 76/न. नं./86(226--250)]

O.N. 146.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People/Legislative Assembly as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of his election expenses, in the manner and within the time and in the manner as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnish-

ed any reason or explanation for the said failure even after the due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order :—

TABLE

Sl. No.	Particulars of election	S. No. and name of constituency	Name of contesting candidate	Reason for disqualification
1	2	3	4	5
226.	General Election to the House of the People (Tamil Nadu)	16. Salem	Shri S. Ariaputhran, S/o Sserangagounder, 272, Pudur, Salem-7 (Tamil Nadu).	Account not lodged at all.
227.	-do-	-do-	Sh. I. Sengottuvelu, S/o Iuthugounder, 415, P. Mannarpalayam, Salem-8 (Tamil Nadu).	-do-
228.	-do-	-do-	Sh. P. Thulasi Ramchari, S/o Thulasiraman, 103, Pennadam Venkataraman St. Salem-1 (Tamil Nadu).	Account not lodged in time and in manner.
229.	General Election to the Legislative Assembly (Tamil Nadu).	3. Dr. Radha Krishnan Nagar	Sh. D.B. Chandran, 13 Ammaiaappa Mudali Street, Old Washermanpet, Madras-21.	Account not lodged at all.
230.	-do-	10. Thousand Lights	Sh. Alagarasamy A.T.S., 4, Srinivasa Perumal Samadhi Street, Madras-14.	-do-
231.	-do-	59. Mugaiyur	Sh. T. Balakrishnan, S/o Thandavarayan, Pillloor Village and Post, Villupuram Taluk, South Arcot Distt. (Tamil Nadu).	Account not lodge in the manner.
232.	-do-	69. Vridhachalam	Sh. A. Gnanamuthu, S/o Anthony, Irupukurichi Village, U. Agaram Post, Vridhachalam Talak, South Arcot Distt. (Tamil Nadu).	-do-
233.	-do-	94. Rasipuram	Sh. S. Karunanithi, S/o Subbaraya Achari, R. Pudupalayam Post, Rasipuram Taluk, Salem District (Tamil Nadu).	Account not lodged in time & in manner.
234.	-do-	98. Tiruchengode	Sh. S. Arthanari, S/o Sempillai, E-168, Andipalayam, Tiruchengode Taluk, Salem District (Tamil Nadu).	Account not lodged at all.

1	2	3	4	5
235.	General Election to the Legislative Assembly (Tamil Nadu).	98. Tiruchengode	Sh. S.R. Arumugam, S/o Rangasamy, 544, Kamaraj Nagar, Avarangadu, Pallipalayam, Salem Distt. (Tamil Nadu).	Account not lodged at all.
236.	-do-	-do-	Sh. A. Duraisamy, S/o Arthanari, Melparaikadu, Thanneerpandal Palayam Post, Tiruchengode Taluk, Salem Distt. (Tamil Nadu).	-do-
237.	-do-	131. Periyakulam	Sh. K. Ayyathurai, S/o Karuppanan, 11/12, Dr. Ambedkar Nagar, Thenkarai, Periyakulam, Madurai Distt. (Tamil Nadu).	-do-
238.	-do-	132. Theni	Sh. S. Narayanasamy, S/o M. Singama Naicker, 56, Balakrishnapuram, Gopalapuram Post, District Madurai (Tamil Nadu).	-do-
239.	-do-	-do-	Sh. P. Rajendran, S/o Perumal Chettiar, Rajaguru Lane, Palanichetty Patty Post Periyakulam Taluk, Madurai District, (Tamil Nadu).	Account not lodged in the manner.
240.	-do-	138. Usilampatti	Sh. M. Raju Thevar, 3, Mohanambal Illam, Bye Pass Road, Madurai-16 (Tamil Nadu).	Account not lodged in time & in manner.
241.	-do-	143. Madurai Central	Shri M.R. Ganesan, 7, Pillaimar Street, Arapalayam, Madurai-10 (Tamil Nadu).	Account not lodged at all.
242.	-do-	148. Dindigul	Sh. F. Ananth, 17A, Line Street, Dindigul, Madurai District (Tamil Nadu).	-do-
243.	-do-	166. Tiruchirapalli-1	Sh. V. Selvam, 13, Saveriyar Koil Street, Varaganeri, Tiruchirapalli (Tamil Nadu).	-do-

1	2	3	4	5
244.	General Election to the Legislative Assembly (Tamil Nadu).	201. Ramanathapuram	Sh. C. Sudhananda Ganesh, 20, Middle Street, Rameswaram, District Ramanathapuram (Tamil Nadu).	Account not lodged at all.
245.	-do-	-do-	Sh. P. Chellathurai, 156-Natarajapuram, Rameswaram, Distt. Ramanathapuram (Tamil Nadu).	-do-
246.	-do-	208. Srivilliputhur	Sh. M. Gnanasekaran alias Philavendran, Santhanam Street, Mamsapuram-626110, Srivilliputhur Taluk, Ramanathapuram Distt. (Tamil Nadu).	-do-
247.	-do-	216. Tenkasi	Sh. A.M. Subbiah, 97, Mathankovil 1st Street, Tenkasi, Distt. Tirunelveli (Tamil Nadu).	-do-
248.	-do-	-do-	Sh. M. Mohaideen Pichai, 61, Rijiini Tailors, Arignar Anna Street, Shenkottai Tirunelveli Distt. (Tamil Nadu).	-do-
249.	-do-	222. Nanguneri	Sh. J. Devasahayam, 52, St. Thomas Street, Perumalpuram, Tirunelveli-7 (Tamil Nadu).	Account not lodged in the manner.
250.	-do-	227. Tuticorin	Sh. V.S. Udayasoorian, 47, Cruzpuram, Tuticorin, Tirunelveli District, (Tamil Nadu).	Account not lodged at all.

[No. 76/TN/86 (226-250)]

आयोग का समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण प्रथमा न्यायीक्षित्य नहीं है ;

अतः जून, निर्वाचन आयोग, उक्त अधिनियम की धारा 10-क के अन्तर्गत से श्री भरतानुर दाम का संसद के किसी भी सदन का या किसी राज्य की विधानसभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आवेद की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० 76/किरज-नं०.स./85(125)]

आदेश से,  
मी. एल. रोज, सचिव,  
भारत निर्वाचन आयोग

आ.प्र. 147:—निर्वाचन आयोग का समाधान हो गया है कि 1984 में हुए लोक सभा के साधारण निर्वाचन में 14-विधायिनकित संसदीय निर्वाचन क्षेत्र में निर्वाचन लड़ने वाले अभ्यर्थी श्री भरतानुर दाम, केसब मदिरम, भारतानुर अकबर, त्रिवेन्द्रम, केरल, लोक प्रतिनिधित्व अधिनियम, 1951 तथा गठित बनाए गए नियमों द्वारा प्रपेक्षित अपने निर्वाचन-अयोग का कोई भी लेखा वाकिस करने में असफल रहे हैं ;

और, उपर्युक्त अभ्यर्थी ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण प्रथमा स्पष्टीकरण नहीं दिया है और अब निर्वाचन

O.N. 147.—Whereas the Election Commission is satisfied that Shri Bharathanoor Das, Kesava Mandram, Bharathanoor P.O., Trivendrum, Kerala, a contesting candidate for the General Election to the House of the People held in 1984 from 19-Chirayinkil Parliamentary constituency, has failed to lodge the account of his election expenses at all as required by the Representation of the People Act, 1951 and the Rules made thereunder ;

And, whereas, he said candidate has not furnished any reason or explanation for the said failure even after due notice and the Election Commission is further satisfied that he has no good reason or justification for the said failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares Shri Bharathanoor Das to be disqualified for being chosen and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

[No. 76/KJ.HP/85 (125)]..

By Order.

C. I. ROSP, Secy.  
Election Commission of India.

नई दिल्ली, 23 जून, 1986

आदेश

आ.प्र. 148.—भारत निर्वाचन आयोग ने अपने तारीख 7 मई, 1986 के आदेश संख्या 76/कर्ना./85(447-471) द्वारा कर्नाटक राज्य में 1984 में हुए लोक सभा के साधारण निर्वाचन में 16-मैसूर संसदीय निर्वाचन क्षेत्र से निर्वाचन लड़ने वाले अभ्यर्थी, मानवा क्रम, के. चार. नगर, मैसूर जिला, कर्नाटक के श्री वाई. सी. रेवन्ना को, अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहने का कारण, संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए उस आदेश की तारीख से तीन वर्ष की कालावधि के निरहित घोषित किया था,

तारीख 11-6-1986 को जिला निर्वाचन अधिकारी और उपायुक्त, मैसूर जिला ने यह सूचित किया है कि श्री वाई. सी. रेवन्ना ने अपने निर्वाचन-व्ययों का लेखा 28-1-1985 को दाखिल किया था, परन्तु यह उनके कार्यालय में गुम हो गया था। अब वाउचरों सहित लेखा दूर लिया गया है और यह पाया गया है कि लेखा बिधि द्वारा अपेक्षित समय में और रीति से दाखिल किया गया था,

अतः अब, लोक प्रतिनिधित्व अधिनियम, 1951 की धारा 1क, साधारण ऋद्ध अधिनियम, 1897 की धारा 21 द्वारा आयोग को प्रदत्त शक्तियों का तथा उसे इस निमित्त समर्थ बनाने वाली सभी शक्तियों का प्रयोग करते

हुए निर्वाचन आयोग निदेश देता है कि इसके तारीख 7 मई, 1986 के आदेश में निम्नलिखित संशोधन किया जाएगा :—

“आदेश के नीचे की सारणी में क्रम सं. 1 के सामने प्रविष्टियाँ हटा दी जाएंगी। क्रम सं. 2 से 13 को क्रम संख्या 1 से 12 के रूप में पुनःसंख्यांकित किया जाएगा।

उपर्युक्त संशोधन को 7 मई, 1986 से प्रभावी माना जाएगा।

[संख्या 76/कर्ना./85]

आदेश से,

चार. पी. भट्टाला, सचिव,  
भारत निर्वाचन आयोग

New Delhi, the 23rd June, 1986

ORDER

O.N. 148.—Whereas the Election Commission vide its Order No. 76/KT/85 (447-471) dated the 7th May, 1986 had disqualified Shri Y. C. Revanna, of 7th Cross K. R. Nagar, Mysore District, Karnataka, a contesting candidates at the general election to the House of the People from 16-Mysore Parliamentary Constituency in the State of Karnataka held in 1984 for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a state for a period of three years from the date of that order for failure to lodge an account of his election expenses ;

Whereas on 11-6-1986, the District Election Officer and Deputy Commissioner, Mysore District as reported that Shri Y. C. Revanna has lodged the account of election expenses on 28-1-1985 ; they were misplaced in his office. The account with vouchers has since been traced and the account is found to be lodged within the time and in the manner required by law ;

Now, therefore, in exercise of powers conferred on the Commission under section 1A of the Representation of the People Act, 1951, Section 21 of the General Clause Act, 1897 and all other powers enabling the Commission in that behalf, the Election Commission hereby directs that the following amendment shall be made in its order dated the 7th May, 1986 mentioned above :—

“In the Table below the Order, the entries against Serial No. 1 shall be deleted. The serial No. 2 to 13 shall be renumbered as 1 to 12.”

The above amendment shall be deemed to be effective with effect from 7th May, 1986.

[No. 76/KT/85]

By Order,

R. P. BHALLA, Secy.  
Election Commission of India.

नई दिल्ली, 7 जुलाई, 1986

आदेश

आ.प्र. 149.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुमा है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा पवधन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपदिष्ट रूप में अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों ने सफल सूचना दिए ताकि वे उक्त असफलता के लिए या तो कोई कारण प्रस्तुत करवा स्वकीकरण नहीं दिया है या उनके द्वारा दिए गए प्रमाणों पर यदि कोई भी बिचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यान नहीं है,

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी को स्वच्छ (4) में विनिर्दिष्ट स्थितियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कायावधि के लिए निर्गमित घोषित करता है।

## सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्रम सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निर्णय का कारण
	2	3	4	5
55.	असम विधान सभा का साधारण निर्वाचन, 1985	28-गोम्साई गांव	श्री मनोन्द्र चन्द साहा गांव गोम्साईगांव शहर, वाडें नं. 2, डाकघर-गोम्साईगांव, जिला : कोकराझार, (असम)	विधि द्वारा अपेक्षित रीति में सेवा दाखिल करने में असफल रहे हैं।
56.	वही	36-दुधनाई (अ. ज. जा.)	श्री बरुणाकात्म्य रमा. गांव बिलपारा, डाकघर बारनगिरि, जिला सोलपारा असम	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया गया।
57.	वही	वही	श्री रबीन्द्र नारायण ब्रह्मा, गांव तारापारा, डाकघर रनगिरि, जिला सोपारा, असम	वही
58.	वही	42-पाटाचार कुची	श्री धनुल कनिता, गांव जालीखाटा, डाकघर हुलोता, जिला बारपेटा, असम	वही
59.	वही	वही	श्री रविराम दास, गांव बाथेजियापारा, डाकघर आथियावागी, जिला बारपेटा, असम	वही
60.	वही	43-बारपेटा	श्री काबादी अणी, डा. वीके के. रोड, डाकघर बारपेटा, जिला बारपेटा, असम	वही
61.	वही	60-बदखोरी	श्री भवन चौधरी, गांव तयाकुन्दा रोड, दियालीपुखरी, गौहाटी-1, जिला कामरूप, असम	वही
62.	वही	२7-बग्रामपुर	श्री अमृत चन्द सीकिया, गांव मेरमेरी डाकघर हालोवा- गांव, जिला नगांव, असम	वही
63.	वही	वही	श्री आदित्य बंगसाई गांव मिथोखखोवा, डाकघर पार्योरी, जिला नगांव, असम	वही

64.	असम विधान सभा का साधारण निर्वाचन, 1985	67-बरगामूर	श्री चन्द्र मिश्र मित्रिक, गांव बोरकनडाली मिफिरपार, डाकघर जामुरमुर, जिला नगांव, असम	निर्वाचित व्यक्तियों का कोई भी लेखा दाखिल नहीं किया गया।
65.	वही	वही	श्री लकीराम बोरा, गांव श्रीर डाकघर दिसाबगुडी, जिला नगांव, असम	वही
66.	वही	वही	श्री सुरजन रायबाल, गांव श्रीप्रसाद लालोग गांव, डाकघर कथियाबली, जिला नगांव, असम	वही
67.	वही	वही	श्री हारा बोरह, गांव निज गोमोया गांव, डाकघर उरियागांव, जिला नगांव, असम	वही

सं. 76 (असम)/86]

आदेश से,

एन.डी. प्रसाद, छबर सचिव

New Delhi, the 7th July, 1986

## ORDER

O.N.149:—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Legislative Assembly of Assam as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	No. & Name of constituency	Name of the contesting candidate.	Reason for disqualification
1	2	3	4	5
55.	General election to the Legislative Assembly of Assam, 1985.	28—Gossaigaon	Shri Manindra Chandra Saha, Vill : Gossaigaon Town, Ward No. 2, P.O. Gossaigaon, Distt : Kokrajhar, Assam.	Failed to lodge the account in the manner required by law.
56.	-do-	36—Dudhnai (ST)	Shri Karunakanta Rabha, Vill : Tilapara, P.O. Darangiri, Distt : Goalpara, Assam.	Failed to lodge any account of his election expenses.



1	2	3	4	5
57.	General election to the Legislative Assembly of Assam, 1985.	36—Dudhnai (ST)	Shri Rabindra Narayan Brahma, Vill : Tarapara, P.O. Darangiri, Distt : Goalpara, Assam.	Failed to lodge any account of his election expenses.
58.	-do-	42—Patacharkuchi.	Shri Atul Kalita, Vill : Jalikhata, P.O. Helona, Distt : Barpeta, Assam.	-do-
59.	-do-	42—Patacharkuchi	Shri Rabiram Das, Vill : Bebajiapara, P.O. Athiabari, Distt : Barpeta, Assam.	-do-
60.	-do-	43 —Barpeta	Shri Kabad Ali, Dr. B.K. Road, P.O. Barepeta, Distt : Barpeta, Assam.	-do-
61.	-do-	60—Barkhetry	Shri Bhuban Choudhury, Vill : Tayabulla Road, Dighalipukhri, Guwahati-I, Distt : Kamrup, Assam.	-do-
62.	-do-	87—Barhampur	Shri Atul Chandra Saikia, Vill : Bherbheri, P.O. Halowagaon, Distt : Nagaon, Assam.	-do-
63.	-do-	87—Barhampur	Shri Aditya Changmai, Vill : Sialekhowa, P.O. Pathori, Distt : Nagaon, Assam.	do
64.	do-	87—Barhampur	Shri Chandra Sing Milik, Vill : Borkandali Mikirpar, P.O. Jamurmur, Distt: Nagaon, Assam.	-do-
65.	-do-	87—Barhampur	Shri Chakiram Bora, Vill & P.O. Dimaruguri, Distt : Nagaon, Assam.	-do-
66.	-do-	87 —Barhampur	Shri Sarban Agarwalla, Vill : Oporbar Lalong gaon, P.O. Kathiatoli, Distt : Nagaon, Assam.	-do-

1	2	3	4	5
67.	General Election to the Legislative Assembly of Assam, 1985.	87—Barhampur	Shri Hara Borah, Vill : Nij Gomotha gaon. P.O. Uriagaon. Distt : Nagaon, Assam.	Failed to lodge any account of his election expenses.

[No. 76/AS/86]

By order,

S.D. PERSHAD, Under Secy

नई दिल्ली, 7 जुलाई, 1986

## घावेन

अ.सं. 150:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा/विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा प्रपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपरि उक्त रूप में अपने निर्वाचन व्ययों का कोई भी लेखा रीति से दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों के सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तुत नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई भी विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त अनुसूचना के लिए कोई पर्याप्त कारण या व्यावहारिक नहीं है।

अतः निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण से नीचे की सारणी 1 के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुन जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्र.सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र की क्रम सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निष्ठा का कारण
1	2	3	4	5
1.	विधानसभा का साधारण निर्वाचन— 1984	15—बामराजनगर (अ.जा.)	श्री एस. विजेंद्र समुद्रनहल्ली ब्लाक के ग्राम. नगर मैसूर जिला (कर्नाटक)	लेखा समझ पर और रीति से दाखिल नहीं किया।
2.	कर्नाटक विधानसभा का साधारण निर्वाचन, 1985	17—यादवीर	मोहम्मद उस्मान, नया मोहिल्ला, गुलबर्गा (कर्नाटक)	लेखा दाखिल नहीं किया।
3.	नहीं	47—चलाकेरे	श्री अनिराज गायत्री टांकोज के सामने, टुमकर, जिला चित्तदुर्ग (कर्नाटक)	लेखा रीति से दाखिल नहीं किया।
4.	नहीं	71—कोलर गोल्ड कोलर (अ.जा.)	वीमदयाल, 147 बी ब्लॉक बैमियन पो. ग्रा. कोलार गोल्ड कोलर (कर्नाटक)	लेखा दाखिल नहीं किया।
5.	नहीं	192—रामपुरी	शंकर मनाबसो, सफा नं. 118, गांधी नगर रामपुरी, जिला बेल्गांव (कर्नाटक)	नहीं
6.	नहीं	नहीं	सुरंग बाममगोड़ा रामनगोड़ा, कोटा बोन तालुक रामपुरी, जिला बेल्गांव (कर्नाटक)	नहीं

7.	कन्नड़ विधान सभा का साधारण निर्वाचन, 1983	192-रामदुर्ग	डा. के.एच. जोशी, जूनोपेट 322, रामदुर्ग, जिला, बेसीगाव, (कन्नटक)	लेखा दाखिल नहीं किया
8.	वही	198-जागाव	शान्तराम शिवाजीराव बेले, 1717, धलवान गयी गाडपुर, बेलगाम (कन्नटक)	लेखा समय पर और रिति से दाखिल नहीं किया।
9.	वही	201-भरनाथी	कुराण्डी शिवपुर कावपा, कुरकुण्डी, तालुक सोकाक, जिला बेलगाम (कन्नटक)	लेखा दाखिल नहीं किया।
10.	वही	वही	हनुमन्तर भाईति, केवापा, म. नं. 211, अगावर, तालुक चिक्कोडी, जिला बेलगाम, (कन्नटक)	वही

[सं. 76/कन्नटक—वि.स./85 (513-522)]

आदेश से,  
सी.एल. रोज, सचिव  
भारत निर्वाचन आयोग

New Delhi the 17th July, 1986

## ORDER

O.N. 150:—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the people/Legislative Assembly specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses in the manner/has not lodged the account at all as shown in column (5) of the said Table as required by Representation of the People Act 1951 and the Rules made thereunder.

And, whereas, the said Candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a state for a period of 3 years from the date of this order.

Sl. No.	Particulars of election	S. No. and name of constituency	Name of contesting candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to the House of the People—1984	15. Chamarajanagar (SC)	Shri/- S. Vijendhar, Madhuvanahalli Block K.R. Nagar, Mysore District, Karnataka.	Account not lodged within time and in manner.
2.	General Election to the Karnataka Legislative Assembly --1985	17. Yadgir	Mohamed Osman, Naya Mohilla, Gulbarga, Karnataka	Account not lodged.

3.	General Election to the Karnataka Legislative Assembly—1985	47—Challakere	Rudraniraju, Opposite to Gayatri Talkies, Tumkur, Dist. Chitradurga, Karnataka.	Account not in manner.
4.	-do-	71. Kolar Gold Fields (SC)	Deenadhayal, 147, 'B' Block, Champion, P.O. K.G.F., Karnataka.	Account not lodged.
5.	-do-	92. Ramadurg	Shankar Munavalli, House No 118, Gandhi Nagar, Ramadurg, Dist. Belgaum, Karnataka.	-do-
6.	-do-	-do-	Surag Basanagouda Raman- gouda, Kotakol, Taluk : Ramdurg, Dist : Belgaum, Karnataka.	-do-
7.	-do-	-do-	Dr. K.H. Joshi, Junipeth, 322. Ramdurg, Dist : Belgaum, Karnataka.	-do-
8.	-do-	Uchagaon	Shantaram Shivajirav Wesne, 1717, Alwan Galli, Shahapur, Belgaum, Karnataka.	Account not in time and in manner.
9.	-do-	201. Arabhavi	Durandi Shivaputra Kallappa, Durdundi, Taluk Gokak, Dist : Belgaum, Karnataka.	Account not lodged.
10.	-do-	201. Arabhavi	Hanamannavar Maruthi Kenchappa, H. No. 211, Jaganur, Taluk : Chickodi Dist. Belgaum, Karnataka.	Account not lodged.

[No. 76/KT—LA/85 (513—522)]

By order.

C.L. ROSE, Secy.  
Election Commission of India

नई दिल्ली, 17 जुलाई, 1986

आ० अ० 151.—लोकप्रतिनिधित्व अधिनियम, 1951 की धारा 106 के अनुसरण में निर्वाचन आयोग एतद्वारा 1985 का निर्वाचन प्रती सं. 3 में दिया गया पत्रिकम बंगाल उच्च न्यायालय का तारीख 11 अक्टूबर, 1985 का निर्णय प्रकाशित करता है।

[सं. 82/प.ब./3/85/86]

प्रदेश से,

एस.डी. प्रसाद, भवर सचिव,  
भारत निर्वाचन आयोग

New Delhi, the 17th July, 1986

O.N. 151.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated the 11th October, 1985 of the High Court at Calcutta, in Election Petition No. 3 of 1985.

[No. 82/WB/(3/85)/86]

S. D. PRASAD, Under Secy.

Election Commission of India

**ELECTION PETITION CASE NO. 3 OF 1985  
IN THE HIGH COURT AT CALCUTTA  
ELECTION PETITION JURISDICTION**

PRESENT :

The Hon'ble Mr. Justice  
Bimal Chandra Basak.

October, 11th, 1985

GOPAL KRISHNA BHATTACHARYYA

VERSUS

ASHUTOSH LAW &amp; ANR.

THE COURT : In this Election Petition the election of the respondent No. 1 Ashutosh Law from 20 Dum Dum Parliamentary Constituency within the State of West Bengal held on 24th December 1984 has been challenged. The petitioner has the election agent of respondent No. 2. The petitioner has prayed, for inter alia, as follows :

- Declaration that the said election of the respondent No. 1 from 20 Dum Dum Parliamentary Constituency in the House of the People (LOK SABHA) in the election held on 29th December, 1984 was and is void;
- Declaration that the respondent No. 2 has been duly elected from the aforesaid 20 Dum Dum Parliamentary Constituency in the House of the People (LOK SABHA) in the election in December, 1984.
- Recounting of the ballot papers of all the Segments as well as the postal ballots in respect of the said Parliamentary Constituency.

## FACTS

2. It is to be pointed out that there were only two candidates in the said Election, namely, the respondent No. 1 who was elected and the Respondent No. 2 who was defeated. The respondent No. 1 contested as a candidate of the Political party known as Congress (I) and the Respondent No. 2 contested as a candidate for the political party known as C.P.I.(M).

3. This Election Petition has been filed on the ground that the said election has become void. The grounds taken for challenging such election are that the result of the election, so far as it concerns the returned candidate has been

materially affected by improper reception, refusal or rejection of vote. The admitted facts in the present case are that the polling of this Parliamentary Constituency constituted of seven Legislative Assembly Segments, namely, Khardah Baranagore, Panihati, Rajarhat, Dum Dum, Belgachhia and Kamarhati. The counting started by way of Legislative Assembly Segmentwise on 25th December, 1984. It is alleged in the petition, inter alia, as follows :

"The total number of voters as shown in the Voters' List in the said Parliamentary Constituency were 1005879. The number of votes polled in the said purported Election were 7,78,814. The number of votes purported to be rejected as invalid in the said purported Election were 17549. Thus the total number of valid votes alleged to have been polled in the said election were 761245. In the whole country in the said General Election this was one of the largest number of Rejected Votes. Your petitioner states that a very large number of votes which were rejected were really valid votes and the majority of such votes were in favour of respondent No. 2."

"Your petitioner states that the respondent No. 2 filed the Nomination papers for the said election on 23rd November, 1984 and the respondent No. 1 filed his nomination papers on 26-11-1984. The date of scrutiny of the Nomination papers filed for the said Constituency as fixed on 28th November, 1984 and the polling of the said Parliamentary Constituency took place on December 24, 1984 the purported counting of votes purported to have been polled in the said constituency was done on December 28 and 29, 1984. The purported result of the said election as declared by the Returning Officer on 29th December, 1984 is as follows :—

## NUMBER OF VOTES :

Total Votes polled :	778814
Names of candidates :	
A. Shri Ashutosh Law	3,81,984
B. Shri Niren Ghosh	3,79,281
	17,549
Total	7,78,814

"The counting of votes in all those seven Assembly Segments commenced simultaneously from 9 A.M. On December 28, 1984. The counting of the aforesaid seven Assembly Segments took place in different places. At Riverside Road Barrackpore in the election Office there is a big lawn and a temporary Pandel was erected having five separate counting halls in respect of five Assembly Segments, namely, 134-Khardah, 135-Panihati, 136-Kamarhati, 137-Baranagore, 138-Dum Dum. Counting in respect of 91. Rajarhat (S.C.) Segment took place at Barasat Government College on the ground floor in Hall No. 1 Barasat. The counting in respect of 139-Belgachhia East Assembly Segment took place at 11, Netaji Subhas Road, Calcutta-700001 that is the Calcutta Collectorate Building. Counting of the Postal ballots took place at a different place on the 29th December, 1984 commencing from 3 P.M. in the presence of the Returning Officer herself which was last place for counting within the meaning of Rule 65 of the Conduct of Election Rules, 1951. This was the Institute of Education for women of the 2nd floor Hall No. 4 at Hastings House, Judges' Court, Alipore, Calcutta-700027. The time of counting of the postal ballots at the said last place for counting of votes at Hastings House, Calcutta as a fore said was scheduled to be held on December 29, 1984".

4. The only contention raised during the hearing on behalf of the petitioners was that the petitioner's request for allowing a short time in order to enable him to make an application in writing for recounting of the ballot papers was illegally rejected by the Returning Officer who was the District Magistrate of 24-Parganas, without assigning any reason and that accordingly this Court must direct a re-count. In this context it is alleged as follows :

"Your petitioner states that at 10 P.M. on the 29th December, 1984 the counting of the postal ballots was complete and after compiling the results of the several Assembly Segments as supplied to her by the respective Assistant Returning Officers together with the result of the counting of postal ballots done in her presence, the Returning Officer Sm. Ranu Ghosh recorded in the result sheet in Form No. 20 the total number of vote allegedly polled by a each candidate and announced the same. Immediately after such announcement which was made under the provisions of Rule 63(1) of the Conduct of Election Rules, 1961 your petitioner handed over the letter dated 29th December, 1984 signed by the respondent No. 2 addressed to the Returning Officer to Sm. Ranu Ghosh the Returning Officer and requested her that since the respondent No. 2 was absent and this letter which was handed over to the said Returning Officer was signed by the Respondent No. 2 in the morning and was with regard to only the rejected votes which were 17000 in number and as such very unusual and the respondent No. 2 and many others had reason to believe that the rejections were not properly done. Your petitioner in his capacity as the election agent of respondent No. 2 who was not present wanted to make an application for recounting giving some details which had been collected by him from different counting agents of different Assembly Segments even upto the moment of the announcement made under Rule 63(1) as grounds. Your petitioner needed about 45 minutes time to write the application for recount and orally prayed for that time to submit an application for recounting in writing. This oral request was made by your petitioner and the letter which was already signed by the respondent No. 2 was handed over to the Returning Officer within a minutes of the Returning Officer making the aforesaid announcement under Rule 63(1) of the Conduct of Election Rules. Your petitioner states that surprisingly enough in utter violation of the orders issued by the election Commission in this behalf as contained in paragraph 20 of Chapter XIV of the Hand Book for Returning Officers published on the 1st January, 1984 by Shri R. K. Triveni, Chief Election Commission of India which enjoins in mandatory terms that in the absence of the candidate his election agent or any of his counting agents can apply in writing for a recount and in such case the Returning Officer should ascertain from him as to how much time he would require for making an application for recounting in writing and further enjoins that if the Returning Officer considers that the time applied for is reasonable and allow it, the Returning Officer should announce the exact hour and minute upto which the Returning Officer will wait for receiving the written application for recounting. The Returning Officer Sm. Ranu Ghosh refused to grant any time to your petitioner to make the necessary application for recounting, in writing and immediately passed the following order in writing and signed the same which is as follows :

**IN THE COURT OF THE RETURNING OFFICER  
20 DUM DUM PARLIAMENTARY CONSTITUENCY :  
ORDER**

Seen the prayer and heard the election agent for recount Since no such prayer was made earlier at any other stage where Assembly Segments were counted and result sheets in Form 20 were read the prayer at this stage cannot be entertained. Rejection was done in presence of the representatives of the candidate at each Assembly Segment who did not challenge the rejections at this time. The margin in 2703 which is quite big. Hence the prayer is rejected.

Sd/-

R. GHOSH, Returning Officer,  
20 Dum Dum Parliamentary Constituency  
&  
District Magistrate, 24-Parganas."

29-12-84

5. A copy of the said letter of the respondent No. 2 dated 29-12-84 is annexed to the petition which is set out hereinbelow :

"In the Court of the Returning Officer

20 Dum Dum Parliamentary Constituency  
Communist Part of India (Marxist), West Bengal State  
Committee Muzaffar Bhawan 31, Alimuddin Street,  
Calcutta-700016.

185, Dum Dum Road,  
Calcutta-74.  
29-12-84.

To :

The Returning Officer,  
Dum Dum Parliamentary Constituency.

Madam,

Since in Dum Dum Parliamentary Constituency there has been huge rejection i.e. 17,000 ballot papers have been rejected and there is reason to believe that this rejection has not always been properly done and the deficit is 2673 approximately, I demand a recounting in the Dum Dum Parliamentary Constituency as a whole.

Yours faithfully  
Sd/-

NIREN GHOSH, Candidate Dum Dum  
Parliamentary Constituency.

6. The admitted position is that before the midnight of 28th December, 1984 the counting of ballot papers of different assembly Segments was completed and that on 29th December, 1984, at about 3 p.m. the counting of postal ballot papers was started and ultimately at about 10 p.m. the final result was announced.

7. In this matter the issues were settled which are as follows :

1(a) Whether any ground has been made out in the Election Petition justifying trial of the same on evidence to decide whether an order should be made for recount of the ballot papers of all the segments as well as the Postal Ballot Papers in respect of 20 Dum Dum Parliamentary Constituency ?

1(b) Was this Court jurisdiction to try, receive on entertain questions raised in the instant Election Petition ?

2(a) Whether the Returning Officer acted erroneously in rejecting the verbal request of the petitioner for a short time to submit an application for recount in writing as alleged in paragraphs 26 and 27 of the Election Petition ?

2(b) If so, what is the effect of the same ?

3. Was the result of the Election of 20 Dum Dum Parliamentary Constituency vitiated by improper rejection, improper reception and inaccurate counting of ballot papers ?

4. Was the Election from 20 Dum Dum Parliamentary Constituency in so far as it concerns the returned candidate has been materially affected by such improper rejection, improper reception and inaccurate counting of ballot papers ?

5. What relief if any, the election petitioner is entitled to By consent of the parties it was agreed that the issues Nos. 1(a), 1(b), 2(a) and 2(b) were to be treated as preliminary issues and they will be heard first. Accordingly, I have heard the Learned Advocates for the parties.

Arguments

8. On the preliminary issue Mr. Lala raised the contention that in view of section 170 of the Representation of people Act, 1951 (hereinafter referred to as the 1951 Act) the petition for recounting made by the petitioner herein having been rejected by the Returning Officer, this Court has no jurisdiction to entertain any such question and the legality of the decision of the Returning Officer cannot be questioned by this Court. The said section is set out hereinbelow :

"170. No Civil Court shall have jurisdiction to question the legality of any action taken or of any other

decision given by the returning Officer or by any person appointed under this Act in connection with an election."

In this context he has relied on a decision of this Court in the case of *Kanailal Bhattacharyya v. Nakhil Das* reported in A.I.R. 1969 Calcutta 267, wherein with reference to section 30 of the representative of peoples Act, 1950 (hereinafter referred to as the 1950 Act) it was held that the High Court hearing an election petition was a Civil Court within the meaning of section 30 of 1950 Act. The said section 30 of the 1950 Act is set out hereinbelow :

"30. No civil court shall have jurisdiction—

- (a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or,
- (b) to question the legality of any action taken by or under the authority of an electoral registration officer, or of any decision given by any authority appointed under this Act for the revision of any such roll.

10. In this connection he has submitted that if any application has been made under Rule 63(1) Conduct of Election Rules (hereinafter referred to as the said Rules) for recounting and it is rejected, then section 170 of the said Act is attracted and no such question can be raised in an election petition. He has submitted that, however, if no such application is made under rule 63(1), such election petitioner on such ground would lie. He has also submitted that, if any application is made, but it is not heard or no decision is taken then section 170 is not a bar. According to him this case comes under the first category as stated above. In this connection he has relied on the following decisions; *Wapansao Vs. Odyuo*, A.I.R. 1971 S.C. 2126 (para 6) *Krishna Kumar Sinha Vs. Returning Officer* A.I.R. 1953 Calcutta 98 and Judgment of Ajit Kumar Sengupta J. delivered in Election Petition case No. 1 of 1982 (*Shyam Sundar Gupta Vs. Deokinandan Poddar*).

11. Regarding the issue No. 1(a) he has submitted that there is no averment of any material or particulars for challenging the election made or for directing the recount. Such recount cannot be ordered except on exceptional grounds. In this connection he has relied on the relevant provisions of the said Rules and also on the following decision : *D. P. Sharma Vs. Commercial & Returning Officer & Ors.* 1984 Suppl. S.C.O. 157 *Beliram Ballaik Vs. Beharilal Khachi* A.I.R. 1975 SC 283; *S. Baldeb Singh Vs. Teja Singh* A.I.R. 1975 S.C. 693.

12. Mr. S. K. Ganguly appearing on behalf of the petitioner has firstly contended before me that section 170 of 1951 Act contains general provisions and section 100 contains special provisions and when there is special expression, they must override the general expression. In this context he has relied upon the decision in the case of *Mulji Vs. Dagor Municipality* A.I.R. 1922 Bombay 247 at P. 251. He has also placed reliance on the decision reported in *Pampakavi Rayappa Belagali Vs. B. D. Jetty* A.I.R. 1971 S.C. 1348, Head note—B (paragraphs 9 and 10) He has submitted that in an Election Petition the correctness of Electoral Roll cannot be gone into. Any matter relating to 1950 Act cannot be gone into but that does not prevent the person aggrieved from challenging the counting as such in an election petition. Regarding the second submission of Mr. Lala, he has submitted that out of the total number of votes rejected we are only concerned with the rejected votes which were doubtful and which were rejected by the Assistant Returning Officer. He has submitted that on the basis of the same his client could have won by more than 4000 votes. On the question of recounting he has relied on the decision in the case of *S. Baldeb Singh V. Teja Singh*, A.I.R. 1975 S.C. 693 However, he has very fairly admitted before me that the said case was on the basis of the rules regarding the counting which was changed after the 1970 decision but that now these rules have again been changed and the present position is that the old position has been revived, that is the petition which was the subject matter of *Baidyanath Paniar Vs. Sitaram Mahato* report in A.I.R. 1970 S.C. 314. He has relied on the decision in the case of *Chunder Singh V. Sree Ram Verma*, A.I.R. 1975 S.C. 403.

He has submitted that the letter of the respondent No. 2 was not an application within the meaning of rule 63 and a accordingly time should have been given to his client as counting agent. He has further submitted that even if the decision of the Returning Officer was held to be unassailable, such counting may still be challenged in this election petition. Even on the basis of fresh materials the Court may direct re-counting.

#### Cases Cited

13. Before dealing with the submissions of the parties, I shall deal with the cases cited by the parties before me.

14. In the case of *Wapan Sao Vs. N. L. Odyuo* (supra) before the Supreme Court it was an appeal from the judgment of the High Court of Assam and Nagaland dismissing the appellant's Election Petition. The appellant, respondent No. 1 Odyuo and respondent Nos. 2 and 3 were candidates at 37 Wokha Constituency at the election held in the month of February, 1969 for the purpose of constituting a new Legislative Assembly of the State of Nagaland. The respondent Odyuo was declared elected. Odyuo obtained 1517 votes and the appellant 1485 votes. Odyuo secured 32 votes more than the appellant. The appellant challenged the election of the respondent Odyuo as a member from 37 Wokha Constituency in the Nagaland Constituency Assembly. The grounds for impeaching the election in so far as it concerned the respondent Odyuo had been materially affected by the improper reception of 348 votes cast in his favour by the personnel of the 12th Battalion Assam Rifles then posted at Wokha and also by the wives of some of them who it was alleged in view of section 20(3) of the 1950 Act were not eligible to be enrolled as voters in the electoral roll of the Wokha Constituency. Secondly it was alleged that the majority of those 348 voters were not citizens of India and, therefore, the votes cast by them in favour of the respondent Odyuo were void. Thirdly it was contended that if the aforesaid 348 votes or the majority of them as void votes were left out of account, the appellant had secured a majority of valid votes. In this connection reliance is placed on paragraphs 6 and 7 of the said judgment which are set out hereinbelow :

"This Court in *Ramaswamy V. B. K. Krishnamurthy* (1963) 3 SCR 479—(SIR 1963 SC 458) held that the finality of the electoral roll cannot be challenged in a proceeding impeaching the validity of the election. The effect of section 30 of the 1950 Act was construed by this Court in the recent decision in *Kabul Singh Vs. Kundan Singh* (1970) 1 SCR 845—(AIR 1970 SC 340) to be that Sections 14 to 24 of the 1950 Act are a complete Code in the matter of preparation and maintenance of electoral rolls and section 30 of the 1950 Act does not confer jurisdiction on a Civil Court to entertain or adjudicate upon a question whether a person is or is not entitled to register himself in the electoral roll in a constituency or to question the illegality of the action taken by or under the authority of the Electoral Registration Officer or any decision given by the authority appointed under the 1950 Act for the revision of any such roll."

(para 6)

"The Civil Court therefore would have no jurisdiction to adjudicate upon a question whether the personnel of the 12th Battalion Assam Rifles in the present case were validly registered as service electors. The contention on behalf of the appellant in the present case was that the Electoral Registration Officer had no jurisdiction to register the personnel of the 12th Battalion Assam Rifles as voters in Wokha Constituency because the service personnel under section 20(3) of the 1950 Act would be deemed to be ordinarily resident. On any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date. The gist of the appellant's contention is that the members having service qualifications cannot be registered as voters in the constituency in which they are posted or stationed in service and the Electoral Registration Officer would have no jurisdiction to register the persons having service qualification as voters in the constituency in which they are stationed in service. The jurisdiction of the Electoral Registration Officer who registered the personnel of the 12th Battalion Assam Rifles as voters

in Wokha Constituency was impeached on the ground that the service personnel were not ordinarily resident in the Wokha Constituency and as such they were not eligible to be registered as voters in the electoral roll of the said constituency." (para 7)

15. I ought to point out that though it has not cited, in the same judgment, it has also been stated as follows to which I drew the attention of the Learned Advocates.

"The jurisdiction of the Electoral Registration Officer to register the voters was submitted on behalf of the appellant to be an infraction of the provisions contained in Section 20 of the 1950 Act on the Ground of the service personnel not being entitled to be voters of Wokha Constituency, and of sections 16 of the 1950 Act read with section 62 of the 1951 Act challenging the qualification of the voters on the ground of citizenship. This Court in *Baidyanath Panjiar V. Sitarani Mahato* AIR (1970 SC 314) held that the lack of power of the Electoral Registration Officer to register voters in violation of the provisions of the relevant statutes would lead to the ground of improper reception, refusal or rejection of any vote or reception of any vote which is void and would therefore be a ground for avoiding the election under section 100(1) (d) (iii) of the 1951 Act." (para 9)

16. In the case of *Kansilal Bhattacharjee Vs. Nikhil Das* (Supra) the petitioner who was an elector of Burtola Assembly Constituency in Calcutta challenged the election of Nikhil Das, the respondent No. 1 West Bengal Legislative Assembly in the general election of 1967 from Burtola Constituency. The principal ground on which the petition was based was that Nikhil Das's name appeared in the Electoral Roll of Burtola Constituency in Calcutta. In this Electoral Roll the address of Nikhil Das has been shown as premises No. 124C, Dharamtala Street but Nikhil Das never was nor is ordinarily a resident at the said premises. In this context it was observed by the Learned Judge with reference to section 30 of 1950 Act that the High Court is a Civil Court within the meaning of the same.

17. This decision was followed in the Election Petition Case No. 1 of 1982 (*Shyam Sundar Gupta Vs. Deokinandan Poddar*) wherein the judgment was delivered by A. K. Sen-gupta, J.

18. In the case of *D. P. Sharma Vs. Commissioner and Returning Officer & Ors* (supra) it was an election appeal to the Supreme Court which was preferred by the defeated candidate. In that case election to the Lok Sabha seat from the Thirteenth Bangalore South Parliamentary Constituency in the State of Karnataka was held on January 6, 1980. The appellant was a Congress (I) candidate while respondent No. 12 was a Janata candidate. Respondent No. 12 having polled the highest number of votes namely 1,98,390 votes as against 1,95,663 votes polled by his nearest rival, the appellant, was declared elected. 8067 votes were rejected as having been invalidly cast. The election of respondent No. 12 was challenged by the appellant by filing an election petition in the Karnataka High Court on several grounds. None of the grounds succeeded and his petition was dismissed. Hence the appeal before the Supreme Court. In support of the appeal substantially only one contention was urged by counsel for the appellant. According to him, the records which were required to be maintained under rules 45 and 56 of the Conduct of Election Rules, 1967 contained discrepancies and irregularities which showed that the entire counting process was defective necessitating a re-count of the votes. It was submitted that under Rule 45 the presiding Officer is required to prepare a ballot papers Account in the prescribed Form 16 (Parts I and II) in which details with regard to the ballot papers receive ballot papers unused, ballot papers used at the polling station and ballot papers found in ballot boxes are required to be given, while prescribed Form 20 contains the final result sheet. It was submitted that if these documents pertaining to all the polling stations in the assembly segments which constituted the parliamentary constituency, prepared by the concerned presiding Officer, are scrutinised two glaring discrepancies would become apparent—(i) at some polling stations in some of the assembly segments the total ballot papers which were actually found from the ballot boxes at the time of counting were in excess of the ballot papers which were issued and used by the voters at the time of the poll and (ii) in some cases less ballot papers were found in the

ballot boxes at the time of counting than what were actually issued and used by the voters. It was urged that such discrepancies clearly showed that the entire process of counting was improperly done, that the prescribed forms required to be maintained under the statute and the rules were not merely inaccurate but will have to be regarded as unreliable and in this situation a case could be said to have been made out where the Court should order a re-count, particularly when respondent No. 12 was declared elected by a margin of 2727 votes. The Supreme Court held that these contention were without substance. The Supreme Court pointed out that during the course of hearing before the High Court, the Returning Officer, who is impleaded as a party respondent to the election petition, was directed to prepare and file a statement showing clearly the discrepancies between the number of ballot papers issued and used by the voters and the ballot papers that were actually found in the ballot boxes and counted and taken into account at the time of counting at all the polling stations in all the 8 assembly segments constituting the Thirteenth Bangalore South Parliamentary Constituency and such statement was prepared and filed by the returning Officer before the High Court.

19. In this connection the Supreme Court observed as follows :

"On a careful examination of this statement it appears to us very clear—and this was not disputed by counsel on either side before us, that the total ballot papers at all the polling stations in all the 8 assembly segments of the parliamentary constituency which were taken out and counted from the ballot boxes were in excess to the tune of 316 over and above those which were issued and used by the voters while the total number of ballot papers which were found less than those which had been issued and used by the voters was 20. The discrepancy as regards finding of less ballot papers from the ballot boxes than what had been issued and used by the voters is easily understandable, for it is quite conceivable that some voters, who had got ballot papers issued to them might have walked out of the polling booths without casting them in the ballot boxes and such discrepancy which in the instant case is only to the extent of 20 ballot papers is not of much significance. It is true that the discrepancy which pertains to finding of excess ballot papers from the ballot boxes over from the ballot boxes over and above those which had been issued and used by the voters would undoubtedly be serious but in the instant case such discrepancy is again in regard to very small and insignificant number, namely 316. It may be stated that the total number of votes that has been cast at the election were to the tune of 4,36,536 and compared to the magnitude of the votes cast the discrepancy as regards the excess ballot papers found in the ballot boxes is too insignificant and in any case it is nowhere near the margin of 2727 votes by which the respondent No. 12 defeated the appellant. We are of the view that these discrepancies are so insignificant in character that they could be safely attributed to accidental slip or clerical or arithmetical mistakes that must have been committed at the time of counting and preparation of the statements in Form 16 and 20. In our view, these discrepancies by themselves do not make out a case for directing a re-count of votes."

20. In this connection the Supreme Court further observed as follows :—

"It is well established that in order to obtain re-count of votes a proper foundation is required to be laid by the election petitioner indicating the precise material on the basis of which it could be urged by him with some substance that there has been either improper reception of invalid votes in favour of the elected candidate or improper rejection of valid votes in favour of the defeated candidates or wrong counting of votes in favour of the defeated candidates or wrong counting votes in favour of the elected candidate which had in reality been cast in favour of the defeated candidate. Admittedly no such material was placed by the appellant either before the High Court or this Court. In that view of the matter by themselves the



discrepancies which have been pointed out by counsel for the appellant in the statements required to be prepared under Rules 45 and 56, do not make out a case for directing a re-count of votes."

"Apart from the aforesaid aspect of the matter we directly asked counsel for the appellant as to whether it was his client's case that because of the discrepancies appearing in the statement of account of ballot papers (Forms 16 and 20) his client or his agents had stopped participating in the counting process and counsel replied in the negative. In other words, the appellant or his agents had participated in the counting process with regard to each and every ballot paper which was found and taken out from the ballot boxes and raised his objection whenever he or they thought fit to do so; in other words, the discrepancies in the prescribed forms, copies of which were furnished to the appellant or his agents did not prevent him or his agents from effectively participating in the counting process. The result was admittedly declared after all objections raised by the appellant or his counting agents during the process of counting had been taken into account and ruled upon by the Presiding Officer and even so no material was placed either before the High Court or before us laying the foundation for obtaining an order for a re-count. In any case as stated earlier no prejudice is shown to have been caused to the appellant by the discrepancies pointed out in the statutory Forms 16 and 20 particularly the discrepancies in regard to the excess ballot papers found would not have affected or altered the result of the election —

Having regard to the above discussion we feel that the High Court was right in dismissing the election petition. The appeal is, therefore, dismissed with no order as to costs."

21. In the case of *Beliram Bhaluk Vs. Jai Behari Lal Khachi and Another* (supra) it was held as follows :

"A whimsical and bald statement of the candidate that he is not satisfied with the counting is not testament to a statement of the "grounds" within the contemplation of R 63(2). The application is thus not a proper application in the eye of law.

Since an order for recount touches upon the secrecy of the ballot, it should not be made lightly or as a matter of course. The Court would be justified in ordering a recount or permitting inspection of the ballot papers only where all the material facts on which the allegations of irregularity or illegality in counting are founded, are pleaded adequately in the election petition, and the court trying the petition is *prima facie* satisfied that the making of such an order is imperatively necessary to decide the dispute and to do complete and effectual justice between the parties. Mere allegations that the petitioner suspects or believes that there has been improper reception, refusal or rejection of votes or there have been irregularities in the counting of ballot papers will not be sufficient to support an order of recount and inspection.

22. In the case of *S. Baldev Singh v. Teja Singh Swatantra and others* (supra) it was held as follows :

"The Court frowns upon frivolous and unreasonable refusals of recount by Returning Officers who forget the mandate of Rule 63 that allowance of recount is not the exception and refusal is restricted to cases where the demand itself is "frivolous or unreasonable". Where the margin of difference is minimal, the claim for a fresh count cannot be summarily brushed aside as futile or trumpery. If a uniform view, founded in legal error, has led to wrong rejection of votes, rectification by a recount on the spot, when a demand was made, would have been reasonable. If formal defects had been misconstrued as substantial infirmities, or vice versa, resulting in wrongful reception or rejection, the sooner it was set right the better, especially when a plea for a second inspection had been made on the spot. Many practical circumstances or legal misconceptions might honestly affect the legal or arithmetical accuracy of the result and prestige of fatigue should not inhibit a fresh, may be partial, check, of course, baseless or concocted claims for recount or fabricated grounds for inspection or specious complaints of mistakes in counting when

the gap is huge are obvious cases of frivolous and unreasonable demands for recount. Malafide aspersions on counting staff or false and untenable objections regarding validity of votes also fall under the same category. This is illustrative, not exhaustive, but underlines the need, in appropriate cases, to be reasonably liberal in re-check and re-count by Returning Officers. After all, fairness at the polls must not only be manifest but misgivings about the process must be erased at the earliest. In deed, the instructions in the Handbook of Instructions to Officers are fairly clear and lay down sound guidelines, judicial power to direct inspection and recount is undoubted but will be exercised sparingly. A judicial re-count is not a matter of right and convincing, not conclusive, specificity is of the essence. Election petitions come to Court after a month and a half and open for trial months later and then the appeal, statutorily, vested, inevitably follows. In this operation litigation, which is necessarily protracted, liberal recount or lax re-inspection of votes may create belated uncertainties, false hopes and a hovering sense of suspense, long after elections are over, governments formed and legislatures begin to function. Moreover, while a recount, within the counting station, with the entire machinery familiar with the process still available at hand and operational, is one thing, a re-inspection and recount, which is an elaborate undertaking with mechanics and machinery of a specialised nature and which cannot be judicially brought into existence without an amount of time, toil and expense, is a different thing. Less election litigation is a sign of a people's adult franchise maturity and adventurist election petitions are an intractable disease to be suppressed. Held that no good grounds for a Court order for inspection and recount, existed.

23. In the case of *Jitendra Bahadur Singh v. Krishna Behari and Ors.* reported in A.I.R. 1970 SC 276 it was held as follows :

"The basic requirements to be satisfied before an election tribunal can permit the inspection ballot papers, are (1) that the petition for setting aside the election must contain an adequate statement of the material facts on which the petitioner relies in support of his case and (2) the tribunal must be *prima facie* satisfied that in order to decide the dispute and to do complete justice between the parties inspection of the ballot papers is necessary. The material facts required to be stated are those facts which can be considered as materials supporting the allegations made. In other words they must such facts as to afford a basis for the allegations made in the petition. If an election petitioner in his election petition gives some figures as to the rejection of valid votes and acceptance of invalid votes, the same must not be considered as an adequate statement of material facts when the petitioner has not disclosed in the petition the basis on which he arrived at those figures. His bald assertion that he got those figures from the counting agents of the unsuccessful candidate cannot afford the necessary basis.

Similarly when the petitioner does not state in the election petition that any of the counting agents appointed by the unsuccessful candidate or his election agent in accordance with the rules had been refused admission to the place of counting, mere allegations that the returning officer did not permit enough number of counting agents to be appointed is an extremely vague allegation. Under S 47 of the Representation of People Act 1951, a contesting candidate and or his election agent may appoint in the prescribed manner one or more persons but not exceeding such number as may be prescribed by the rules, to be present as his counting agent or agents at the counting of votes and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer. Rules framed under that Act prescribe the number of counting agents that a candidate may appoint. The form of the notice required to be given under section 47 of the Act is given in the rules. The appoint of the counting agents is to be

made in the prescribed form in duplicate, one copy of which is to be forwarded to the returning officer while the other copy should be made over to the counting agent. Rules also provide that no counting agent shall be admitted into the place fixed for counting unless he had delivered to the returning officer the second copy of the instrument of his appointment after duly completing and signing the declaration contained therein. Hence the mere allegation that the returning officer did not permit enough number of counting agents to be appointed cannot afford the necessary basis.

Similarly as to the rejection of the votes polled in favour of the unsuccessful candidate, under the rules before a vote is rejected the agents of the candidates must be permitted to examine the concerned ballot paper. Therefore it is quite easy for them to note down the serial number of the concerned ballot papers. Therefore if the election petition is silent as to the inspection of the ballot papers or whether the counting agents had noted down the serial numbers of those ballot papers or whether those agents raised any objection relating to the validity of those ballot papers, if so who those agents are and what are the serial numbers of the ballot papers to which each one of them advanced their objections the material facts required to be stated, are not satisfied and hence scrutiny of ballot papers should not be ordered.

24. In the case of *P. R. Belagali Vs. B. D. Jatti and Ors.*, reported in A.I.R. 1971 S.C. 1348 (supra) it was held as follows :

"Section 100(d)(iv) does not entitle the Court in an election petition to set aside any election on the ground of non-compliance with the provision of the Act of 1950 or any rules made thereunder with the exception of section 16 of the Act of 1950. In an election petition, the correctness of the electoral Roll cannot be gone into (1965) 1 Mys LJ 676 and AIR 1968 Punj 1(FB) approved."

The entire scheme of the Act of 1950 and the amplitude of its provisions show that the entries made in an Electoral Roll of a constituency can only be challenged in accordance with the machinery provided by it and not in any other manner or before any other forum unless the question of violation of the provisions of Constitution is involved.

The question whether the returned candidate was ordinarily resident in the constituency under section 19(b) of the Act of 1950 during the material period and was entitled to be registered in the Electoral Roll could not be the subject matter of enquiry except in accordance with the provisions of Act of 1950.

25. In the case of *Chanda Singh V. Shiv Ram Varma and Ors.* reported in A.I.R. 1975 S.C. 403 it was held as follows :—

"Rule 63 of the Conduct of Election Rules 1961 obligates the candidate to state 'the grounds on which he demands such recount'. It is plain that a mere doubt or small lead or unspecified blemish in the manner of the counting falls short of the needs of the said rule. Under the rule the demand for recount may be rejected if it appears to the Returning Officer to be frivolous or unreasonable. What is not reasonably grounded, or seriously supported is unreasonable or frivolous. Suspicious of possible mischief in the process or likely errors in counting always linger in the mind of the defeated candidate when he is shocked by an unexpected result. The Returning Officer has to be careful, objective and sensitive in assessing the legitimacy of the plea for re-running the course of counting, victory by a very few votes may certainly be a ground to fear unwitting error in count given other circumstances tending that way. If the counting of the ballots are interfered with by too frequent and flippant recounts by counts a new threat to the certainty of the poll system is introduced through the judicial instrument. Moreover the secrecy of the ballot which is sacrosanct becomes exposed to deleterious prying if recount of votes is made easy. The best surmise if it be nothing more than surmise, cannot and should not induce the judge to break open ballot boxes. If the lead is relatively little and/or other

legal infirmities or factual flaws hover around, recount is proper, not otherwise. In short, where the difference is microscopic the stage is set for a recount given some plus point of clear suspicion or legal lacuna militating against the regularity, accuracy impartiality or objectivity bearing on the original counting. Of course, even if the difference be more than microscopic, if there is a serious flaw or travesty of the rules gross interference, a liberal repeat or recount exercise to check or possible mistake is a fair exercise of power. To tamper with the counting staff with bias is easy for any party who divorces means from ends. When the challenger belongs to the party in power a heavy strain is thrown on the strength of the moral fibre of the election staff whose fearless integrity is a guarantee or purity of the whole process but whose fortune before and after the elections may be cast with a political government whose key men may sometimes take disturbingly keen interest in the outcome of elections and election petitions. The Court should be reluctant to lend quick credence to the mud of partiality slung at counting officials by desperate and defeated candidates although what is more important is the survival of the very democratic institutions on which our way of life depends."

Decision :

26. I am unable to accept the extreme contention raised on behalf of the respondents that Section 170 of the 1951 Act is a total bar to any question being raised in the election petition regarding improper rejection of ballot papers. It has to be pointed out in this connection that the petitioner is not raising any matter relating to the electoral roll or correctness thereof. The 1950 Act is a Code by itself. In an election petition, any question relating thereto cannot be raised. However it is specified in section 100 of 1951 Act itself the grounds on which such an election petition can be entertained. Under the said section it has to be shown that on one or more of the grounds specified therein, the result of the election, in so far as it concerns a returned candidate, has been materially affected by improper reception. One of the grounds is refusal or rejection of any vote. Even if an application for recount has been made before the Returning Officer and even if the same has been rejected by him and even if any action has been taken or decision given by the Returning Officer to that effect, in my opinion, that does not prevent an election petition being made under section 100 on any such ground. In my opinion even if the Court hearing an election petition be treated as a Civil Court, if the question relates to one of the grounds specified in section 100, then the Court hearing such election petition can certainly entertain the same and section 170 would be no bar to the same. Otherwise, the effect would be that such general provision in section 170 would take away the substantive right conferred on the persons concerned to challenge the election on one of the grounds specified in section 100 of the 1951 Act. This will also be borne out by the decisions referred to above. The facts and circumstances of the cases cited by Mr. Lala in support of his contention are quite different. On the other hand, in the case of *Wapin Sao Vs. Odyno* (supra) Supreme Court itself relied upon the decision in *Baidyanath Panjari Vs. Sitaram Mahato* reported in A.I.R. 1970 S.C. 314 which I have quoted above. Accordingly I reject this extreme contention of Mr. Lala.

27. However, the question still remains as to whether this Court will entertain this petition and pass an order for recount in the facts and circumstances of this case. When any such recount can be made has been specifically mentioned and the principles involved have been very clearly laid down by various decisions of the Supreme Court referred to above. The admitted position in the present case is that the letter of the candidate itself was submitted and on the basis of such letter an order has been passed by the Returning Officer. I have already set out the letter and the order. The action of the Returning Officer in rejecting the application on the facts and circumstances of this case cannot be assailed. An application for recount to be made before the Returning Officer must be on proper grounds. In the present case, on the ground specified in the letter, no such application for recount should have been allowed, as pointed out by Supreme Court in the case of *Baliram Balalik Vs. Jai Behari Lal* (supra) a whimsical and bald statement is not statement of

'grounds' within the meaning of Rule 63. In my opinion, this is not a case of frivolous and unreasonable refusal of re-count by Returning Officer but it was a case of 'frivolous' and 'unreasonable' demand for recount. Reference may be made in this connection to the Supreme Court decisions in *S. Baldev Singh Vs. Teja Singh Swatantra* (Supra) *Chanda Singh Vs. Saw Ram Varma* (Supra). I am unable to accept the contention of Mr. Ganguly that this letter was not an application within the meaning of rule 63 of the Rules and that accordingly sufficient time to make an application under such Rule should have been given. It is true that if no such application had already been made, time should have been given to the person concerned to make such application. But in the present case the letter of the candidate itself is an application within the meaning of the said Rule and upon such application an order was passed. It was passed properly on the facts and circumstances as it stood at the relevant time. The question of giving an opportunity to make any further application cannot and does not arise. I am also unable to accept the contention that any such oral prayer for further application was made as this is not borne out by the records. The records do not mention about such prayer and it is not also challenged that the order has not been properly recorded. If any such oral application was made, that would have been recorded and if not recorded, it would have been challenged.

28. The next question is that even if such recount has been rightly refused by the Returning Officer, whether this Court has still the jurisdiction to direct a recount. Speaking as a principle of law, in my opinion, merely because a decision has been given by the Returning Officer, that is not an end of the matter and this Court hearing an election petition has still got the jurisdiction to direct the recount if a proper case has been made out in view of the specific grounds specified in section 100. For example, in a given case such an application made on behalf of the defeated candidate may be rightly rejected by the Returning Officer. But that would not be a bar to a subsequent substantive election petition filed by an elector on the ground of any "improper reception or rejection of any vote" within the meaning of section 100 of 1951 Act. An ordinary elector is not expected to know about any improper rejection of reception of votes immediately after such counting but he might come to know of the same sometime thereafter. Therefore, merely because there is an application for recounting made under rule 63 by or on behalf of the candidate, which is rejected, that itself cannot stand in the way of an ordinary elector making an election petition taking up such point. It may also be the case that where certain facts were not known at the relevant time by the candidate or the counting agent, but subsequently it came to their knowledge, in that case also the earlier order of rejection for re-counting would also not be a bar provided proper grounds for recounting is made out. It all depends on the facts of each case. In this case certain allegation have been made in the letter. The main allegation on which the recount is asked for is that according to Mr. Ganguly the position would have been as follows :

Particulars—		
	R 2	R 1
Para 13—Khurda	991	152
para 15—Biranagore	893	464
Para 16—Panjhati	1036	138
para 17—Rajathat	891	216
Para 18—Dum Dum	687	398
Para 19—Bhagachia	792	327
Para 20—Kamrathi	1049	316
	6249-	2011-
	8260	4238

29. It is admitted before me that the following procedure for counting was followed: On the 28th December, 1984

the Assembly Segment-wise counting took place. As already stated, there were seven assembly segments. In respect of each of such segments there were various tables. In such tables while the counting was going on, in respect of those ballot papers which were proposed to be rejected and regarding which no dispute or objection was raised by any of the agents, they were rejected then and there. There was or is no further controversy or dispute regarding the same. However, regarding those ballot papers which were sought to be rejected, regarding which objection to such proposed rejections were raised by any of the counting agents of the candidates present in the table, they were sent to the Assistant Returning Officer seating in a separate table and he gave a decision regarding the validity of those disputed votes which were sought to be rejected. Before such decision for formal rejection was taken by him, the representatives of both the candidates present before him got an opportunity not only to look into the ballot papers but also an opportunity to note down the number of the relevant ballot papers. After the counting of a particular legislative segment was completed a statutory form was signed by the assistant Returning Officer. Accordingly such formality of the particular Assembly Constituency segment was performed after the agent of the candidates had full opportunity to consider the validity of such rejection and had made notes regarding the particulars of the same. As pointed out in the case of *D. P. Sharma Vs. Commissioner and Returning Officer* (supra) the applicant and the counting agents of respondent No. 2 had participated in the counting process and were given opportunity to raise objections. All these countings, Assembly Segment wise, were finished by about 10 O'Clock in the night of 28th December and the Forms were signed. On 29th December the Forms were brought before the Returning Officer and after considering the forms and returns filed and the counting of postal ballots the final decision was announced. It is to be pointed out that by 10 O'Clock on the night of 28th December, the counting agents who were present at the relevant places were aware of all particulars relating to the rejection of the ballots and the reasons of rejections, as required to be noted under the provisions of law, including the number of the ballot papers concerned. If the grievance of the petitioner was genuine then such objection would have been raised before and particulars furnished to the Returning Officer. Not only that at the time of finally signing Form 20 relating to the assembly segments, no such objection was raised. No such particular was also furnished before the Returning Officer. That at the time of finally signing Form 20 relating to the available to them at least by 10 P.M. on 28th December. In my opinion, had it been genuine, then this objection would have been raised before the Assistant Returning Officer at the time of declaring results of the Assembly Segments and such particulars in writing would have been furnished before the Returning Officer. This is not a case where the petitioner has come to know for the first time after the results were announced that there was improper rejection of votes. No such allegation was made or particulars given in the petition filed before the Returning Officer for recounting. The particulars of the ballot papers were not given. If the facts alleged in the election petition had been correct there would have been an objection made before the Assistant Returning Officer before his filling of Form 20 and those particulars with special reference to the ballot numbers, would have found place in the application for recounting made before the Returning Officer under rule 63. The absence of the same shows that this is merely an after thought and merely a fishing expedition. The election is sacrosanct. It cannot be interfered with and the ballot papers cannot be disturbed and secrecy must be maintained until and unless a very special case has been made out for reopening all these things and for having a recount. The Court must be prima facie satisfied that the making of such order is imperatively necessary to decide the dispute and to do complete and effective justice between the parties. Such judicial power to re-count must be used sparingly. It is not a matter of right. Convincing but not necessarily a conclusive case must be made out. *Beliram Balaik Vs. Beharilal* (supra), *S. Baldev Singh Vs. Teja Singh Swatantra* (supra) *Jitendra Bahadur Singh Vs. Krishna Behari* (supra). In my opinion, in this case the petitioner has failed to establish such a case and the application cannot be allowed.

30. For the aforesaid reasons, the preliminary issues are answered in the following manner :

Issue No. 1(a).—Whether any ground has been made out in the Election Petition justifying trial of the same on evidence to decide whether an order should be made for recount of the ballot papers of all the segments as well as the postal ballot papers in respect of 20 Dum Dum Parliamentary Constituency.

Ans.—No.

Issue No. 1(b).—Has the Court jurisdiction to try, receive or entertain question raised in the instant Election Petition?

Ans.—Section 170 is no bar but no case has been made out for this Court to exercise its jurisdiction in the present case.

Issue No. 2(a).—Whether the Returning Officer acted erroneously in rejecting the verbal request of the petitioner for a short time to submit an application for recount in writing as alleged in paragraphs 6 and 27 of the Election Petition?

Ans.—This Court is unable to accept that any such verbal request was made and even it was so made, it was rightly rejected in the facts and circumstances of this case.

Issue No. 2(b).—If so, what is the effect of the same?

Ans.—Question does not arise in view of the answer to 2(a).

31. Having regard to my decision on the preliminary issues as aforesaid, the parties are agreed that there is nothing left so far as the main election petition is concern-

ed and accordingly by consent of the parties the same is treated as in the day's list and is dismissed.

32. So far as the cost is concerned, a sum of Rs. 1,000/- is to be paid to the respondent No. 1 out of the money deposited by the petitioner and the balance amount is to be returned to the petitioner's Advocate on record.

33. Having regard to my decision in this case the amount deposited by the respondent No. 1 is to be returned back to the respondent No. 1.

34. In view of my decision in this case, the application under section 97 of the Act has become infructuous and accordingly it is not pressed. No order is passed therein.

Sd/-

for Registrar, High Court  
Original Side, Calcutta.

ELECTION PETITION CASE NO. 3 OF 1985

IN THE HIGH COURT AT CALCUTTA

ELECTION PETITION JURISDICTION

Gopal Krishna Bhattacharya

Versus

Ashutosh Law & Anr.

Judgment delivered by the Hon'ble Mr. Justice Bimal Chandra Basak this 11th day of October 1985.

11-10-85:Mr. S. K. Ganguli appears & submit Mr. R. K. Lala appears and submits. The Court : Judgment delivered.

Sd/-

For Registrar, High Court  
Original Side, Calcutta.